REMARKS

Claims 1-18 and 20-54 are currently pending in the application. By this amendment claim 23 was amended to address a formal matter. This amendment also does not raise any new issues that need further search and/or consideration, nor any question of new matter. Accordingly, Applicants request reconsideration and withdrawal of the rejections.

Allowable Subject Matter

Applicants appreciate the indication that claims 31 and 37-40 would be allowable if rewritten in independent form. However, Applicants are not at this time presenting any of these claims in independent and allowable forms.

35 U.S.C. § 112

Claim 23 was rejected under U.S.C. § 112, second paragraph for reciting the limitation "said groove", for insufficient antecedent basis for this limitation in the claim. Applicants have amended claim 23 to provide adequate antecedent basis for the term "said groove." In view of the above amendment, the Examiner's rejection is moot.

Therefore, Applicants request the Examiner reconsider and withdraw the 35 U.S.C. § 112, second paragraph rejection of claim 23, and indicate that this claim is in compliance with the statute.

35 U.S.C.§ 102(b)

1. *Over BRENDEL*

Applicants traverse the rejection of claims 1-7,13-18, 20-22, 26, 28-29, 30, 33-36 and 45-46 [as well as claims 47-50, see below] under 35 U.S.C. § 102(b) as being

anticipated by Brendel (U.S. Patent No. 5,141,238) ("BRENDEL"). The Examiner asserts that BRENDEL shows all of the features of the above-noted claims. Applicants traverse the Examiner's assertions.

While the Examiner did not identify claims 47-50 in line 1 of section 4 of the Office Action (page 2), claims 47-50 were argued under section 4 (see pages 4-5 of Office Action). Therefore, Applicant believes as best that can be understood by the Examiner, that claims 47-50 were intended to be included in section 4 of the instant Office Action.

Applicants' independent claim 1 recites, *inter alia*,

> "...at least one sealing element, positionable opposite the moving surface to form a front and a rear, with respect to a surface running direction, comprising a sealing section located at said front and a ventilation section located at said rear;
>
> wherein said sealing element is pivotally mounted at an end of said ventilation section..."

Applicants' independent claim 15 recites, *inter alia*,

> "...at least one sealing element, positionable opposite the moving surface to form a front and a rear, with respect to a surface running direction, comprising a sealing section located at said front and a ventilation section located at said rear; and
>
> said at least one sealing element being pivotably mounted at an end of said ventilation section to pivot relative to the moving surface to position said at least one sealing element into an operating position,
>
> wherein, in said operating position, said sealing section is in sealing contact with the moving surface and a gap is formed between the ventilation section and the moving surface.

Applicants' independent claim 21 recites, *inter alia*,

> "...a sealing section located at said front and a ventilation section located at said rear; and
>
> said at least one sealing element being pivotably mounted to pivot relative to the moving surface to position said at least one sealing element into an operating position,

> wherein, in said operating position, said sealing section is in sealing contact with the moving surface and a gap is formed between the ventilation section and the moving surface, and
>
> wherein said sealing element is pivotally mounted in a region of an end face located at said rear..."

Applicants submit that BRENDEL does not anticipate the instant invention.

BRENDEL discloses a seal system (10') that swings on a pivot axis (4) and is arranged against a moving surface (2) shown in Figure 2, operating between zones (16 and 11) or pressure chambers of over-pressure or under-pressure at the moving surface (2). A base portion (4') pivots between two defined swing positions, and in the front end position, seals against the surface 24. (see Figure 2 and Col. 4, lines 13-15, 20-26 and 40-46)

Contrary to the present invention, BRENDEL does not disclose, *inter alia*, a sealing section located at said front and a ventilation section located at said rear; and wherein said sealing element is pivotally mounted at an end of said ventilation section, as recited in at least independent claim 1. BRENDEL does not disclose, *inter alia*, a sealing section located at said front and a ventilation section located at said rear; and said at least one sealing element being pivotably mounted at an end of said ventilation section to pivot relative to the moving surface to position said at least one sealing element into an operating position, as recited in at least independent claim 15. BRENDEL does not disclose, *inter alia*, a sealing section located at said front and a ventilation section located at said rear; and wherein said sealing element is pivotally mounted in a region of an end face located at said rear, as recited in at least independent claim 21. More specifically, BRENDEL does not disclose even arguably suggest the sealing element that is pivotally mounted at the rear end position of the

sealing element, in fact, BRENDEL does not disclose a ventilation system, or a ventilation system located at the rear end of the sealing element as claimed. In particular, BRENDEL does not disclose a sealing element structured and arranged to pivot in the same manner as that of the instant invention.

Moreover, Applicant submits that BRENDEL fails to show a sealing section located at the front and a ventilation section located at the rear; and the sealing element pivotally mounted at an end of the ventilation section, as recited in at least independent claim 1. BRENDEL does not show a sealing section located at the front and a ventilation section located at the rear; and the at least one sealing element being pivotably mounted at an end of the ventilation section to pivot relative to the moving surface to position the at least one sealing element into an operating position, as recited in at least independent claim 15. BRENDEL does not show a sealing section located at said front and a ventilation section located at said rear; and wherein said sealing element is pivotally mounted in a region of an end face located at said rear, as recited in at least independent claim 21.

Because the applied reference of BRENDEL fails to disclose each and every element recited in the claims, Applicants submit that BRENDEL fails to provide an adequate evidentiary basis to support a rejection of anticipation under 35 U.S.C. §102(b). Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1-7,13-18, 20-22, 26, 28-29, 30, 33-36 and 45-46 [* as well as claims 47-50] under 35 U.S.C. § 102.

2. *Over WICKS*

Applicants traverse the rejection of claims 23-24 and 26 under 35 U.S.C. § 102(b) as being anticipated by Wicks et al. (U.S. Patent No. 4,783,085) ("WICKS"). The Examiner asserts that WICKS shows all of the features of the above-noted claims. Applicants traverse the Examiner's assertions.

Applicants' independent claim 23 recites, *inter alia*, a sealing element having a sealing section located at said front and a ventilation section located at said rear and having a groove to be pivotably mounted, a pivot bearing arranged to pivotably mount said sealing element, said pivot bearing comprising a fixed bearing element arranged to engage a groove, and wherein the operating position of the sealing section is in sealing contact with the moving surface and a gap is formed between the ventilation section and the moving surface. Applicants submit that WICKS does not anticipate the instant invention.

WICKS discloses a seal system (10) swings on a pivot axis (36') shown in figure 2, operating between zones (32 and 34) of high pressure (32) and a low pressure (34) at a moving surface (14), such that seal (10) is arranged against the stationary (or substantially static sidewall) surface (12). Seal (10) pivots between two defined swing positions, sealing against surface (24). (see Figure 2 and Col. 3, lines 14-57)

Contrary to the present invention, WICKS does not disclose, *inter alia*, a sealing element having a sealing section located at said front and a ventilation section located at said rear and having a groove to be pivotably mounted, a pivot bearing arranged to pivotably mount said sealing element, said pivot bearing comprising a fixed bearing element arranged to engage a groove, and wherein the operating position of the

sealing section is in sealing contact with the moving surface and a gap is formed between the ventilation section and the moving surface, as recited in at least independent claim 23. More specifically, WICKS does not disclose the sealing element having a groove for pivotally mounted at an end of the ventilation section, nor does WICKS disclose a sealing element structured or positioned opposite a moving surface to form a front and a rear with respect to a surface running direction or a pivot bearing arranged to engage the groove in the sealing element, in fact, WICKS does not disclose a ventilation section, or a ventilation section located at the rear end of the sealing element, as claimed.

Because the applied reference of WICKS fails to disclose each and every element recited in the claims, Applicants submit that WICKS fails to provide an adequate evidentiary basis to support a rejection of anticipation under 35 U.S.C. §102(b). Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 23-24 and 26 under 35 U.S.C. § 102.

35 U.S.C.§ 103(a)

Applicants traverse the rejection of claims 10-12 under 35 U.S.C. § 103(a) as being unpatentable over BRENDEL in view of Kawamura et al. (U.S. Patent No. 4,295,654) ("KAWAMURA"). This rejections is respectfully traversed.

Applicants submit that KAWAMURA fails to show the features of the invention identified as deficient in BRENDEL. For example, neither reference show *inter alia*, a sealing section located at the front and a ventilation section located at the rear; and wherein the sealing element is pivotally mounted at an end of the ventilation section, as

recited in at least independent claim 1. More specifically, neither BRENDEL nor KAWAMURA disclose or even arguably suggest a sealing element pivotally mounted at the rear end position of the sealing element. In fact, BRENDEL and/or KAWAMURA does not disclose a ventilation system, or a ventilation system located at the rear end of the sealing element, such that no proper combination of these documents can render unpatenable the recited combination of features.

Applicants note that KAWAMURA discloses a seal for track linkage that is made of UHMW polyethylene. However, contrary to the present disclosed invention, KAWAMURA does not disclose a sealing section located at the front and a ventilation section located at the rear, and the sealing element pivotally mounted at an end of the ventilation section, as recited in at least independent claim 1. More specifically, KAWAMURA does not teach or suggest the structural features of the instant invention.

Applicants further submit that claims 10-12 are allowable at least for the reason that these claims depend from allowable base claim 1 and because these claims recite additional features that further define the present invention.

Accordingly, the Examiner is respectfully requested to withdraw the rejection of claims 10-12 under 35 U.S.C. § 103.

CONCLUSION

In view of the foregoing, it is submitted that none of the references of record, either taken alone or in any proper combination thereof, anticipate or render obvious Applicant's invention, as recited in each of claims 1-18 and 20-54. The applied

references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

Further, any amendments to the claims which have been made in this response and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

Respectfully submitted,
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